IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY FIFTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

-

WRIT PETITION NO : 15122 of 2004

Between:

Rachakatla Venkata Rajam, S/o Ellaiah,
R/o H.No.2-10-175, Jyothinagar, Karimnagar

..... PETITIONER

AND

1 The Municipal Council, Karimnagar rep.by its Commissioner,
Office of Municipality, Karimnagar
2 Darmana Mohan, S/o Kistaiah,
Attender in Karimnagar District Co-op Central Bank Ltd. Karimnagar,
R/o Jyothinagar, Karimnagar

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ or order or direction, more in the nature of Writ of Mandamus, declaring the action of the respondent No.1 in not developing the 30' wide road out of 334 Sq.Yards in Sy.No.1166, situated in Jyothinagar Locality, Karimnagar proper as developed on either side of disputed property as bad, illegal, arbitrary apart from the same being violative of Art.14,19,21 and 300-A of Constitution of India and to set aside the same consequently directing the 1st respondent to develop the 30' Wide road as per T.P.No.11 of 1970 at the earliest point of time and pleased to pass such other order or orders.

Counsel for the Petitioner:MR.C.RAMESH SAGAR

Counsel for the Respondent No.1: MR.R.TIMMA REDDY, Standing Counsel for Municipalities

Counsel for the Respondent No.2: -----

The Court at the stage of admission made the following ORDER:

The grievance of the petitioner is that the first respondent-Commissioner, Municipal Council, Karimnagar, is not taking any action to develop the 30' wide road out of 334 sq.yards in Survey No.1166 situated at Jyothinagar locality, Karimnagar after removing the encroachments made by the third parties.

The first respondent in proceedings in O.S.No.401 of 1998, which was filed by the second respondent before the Principal Junior Civil Judge, Karimnagar, had admitted that the 30' wide road could not be developed due to the existence of the injunction orders granted by the Civil Court in the earlier suit in O.S.No.748 of 1983. The said suit i.e. O.S.No.401 of 1998 was dismissed on 03-02-2003. Aggrieved by the same, the second respondent carried the matter in appeal in A.S.No.19 of 2003 before the III Additional District Judge, Karimnagar, who by an elaborate order, dismissed the appeal with a categorical finding in para 22 of the said judgment that as the first respondent herein (first defendant) formed a road, as the suit was dismissed and since the second respondent herein (plaintiff) failed to establish his right or interest over the land, which was encroached by him and constructed huts therein, but not the house, the first respondent (first defendant) got every right to demolish the same for laying the road and that the same was done by the first respondent (first defendant) and that as no huts are existing, the question of granting injunction does not arise.

In view of the said finding and encroachments were already removed and road was also already laid down, no further directions need to be issued in this case. However, the first respondent is under obligation to maintain the said road for the purpose of general public.

The writ petition is accordingly dismissed. No costs.

25th AUGUST, 2004.

kvni

To

1 The Commissioner, Municipal Council,
Office of Municipality, Karimnagar
2 Two CD copies.